



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,410	07/02/2003	Sverrir Olafsson	00CON114P-CIP1C	7500

7590 03/17/2005
Richard D. Egan
O'Keefe, Egan & Peterman, LLP
1101 Capital of Texas Highway South
Suite C-200
Austin, TX 78746

EXAMINER

ENG, GEORGE

ART UNIT PAPER NUMBER

2643

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,410

Applicant(s)

OLAFSSON ET AL.

Examiner

George Eng

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/2 thru 11/28/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statements filed 7/2/2003, 9/2/2003, 10/16/2003 and 11/28/2003 have been considered.

Drawings

2. The formal drawings were received on 7/2/2003. These drawings are acceptable.

Response to Amendment

3. This Office action is in response to the preliminary amendment filed 7/2/2003. Accordingly, claims 21-30 are canceled and claims 1-20 are pending for examination.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Art Unit: 2643

5. Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-43 of U.S. Patent No. 6,768,791 and claims 1-25 of U.S. Patent No. 6,819,749. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the claimed limitations, i.e., the steps of establishing a communication session between said first device and said second device over a communication channel, obtaining an operating parameter for said data transmission system, storing said operating parameter at said second device as a stored operating parameter, and recalling said stored operating parameter, in response to the termination of a temporary pause in said communication session, to thereby obtain a recalled operating parameter, are transparently found in U.S. Patent No. 6,768,791 and U.S. Patent No. 6,819,749 with obvious wording variations.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said data transmission system" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "said data communication network" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 1-3, 8-11, 14-15 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Nagao (US PAT. 5,764,278).

Regarding claim 1, Nagao discloses a method for reducing time for reconnecting a first device to a second device over a communication link (abstract) comprising the steps of establishing a communication session between the first device and the second device over a communication channel in order to perform communication (col. 5 line 52 through col. 6 line 8), obtaining an operation parameter for a data transmission, the operation parameter being associated with the communication channel (col. 8 line 8-25), storing the operation parameter at the second device as a stored operating parameter (col. 9 lines 34-49), and recalling the stored

Art Unit: 2643

operating parameter to thereby obtain a recalled operating parameter in response to the termination of a temporary pause in the communication session (col. 11 line 65 through col. 12 line 21).

Regarding claim 2, Nagao teaches to initialize at least one of the first and second devices (col. 6 line 9-17).

Regarding claim 3, Nagao teaches to reset the second device using the recalled operation parameter and subsequently re-establish a data transmission mode between the first and second devices (col. 12 lines 12-18).

Regarding claim 8, Nagao teaches the stored operating parameter comprising initialization data associated with a receiver resident at the second device (figure 6 and col. 8 lines 8-25).

Regarding claim 9, Nagao discloses a method of reducing time for reconnecting a first device to a second device over a communication link (abstract), each of the first and second devices being configured to maintain a number of stored operating parameters associated with a data transmission mode (col. 4 lines 19-29) comprising the steps of receiving a reconnect indication at the first device (col. 11 lines 65-67), transmitting a reply signal from the first device to the second device in response to the reconnect indicate (col. 12 lines 5-8), recalling a stored operation parameter at the second device in response to the reply signal to thereby obtain a recalled operating parameter for the second device and subsequently re-establishing a data communication mode between the first and the second devices using the recalled operating parameter for the second device (col. 12 lines 12-18).

Regarding claims 10-11, Nagao discloses the steps of resetting the second device using the recalled operation parameter, recalling a stored operating parameter at the first device in response to the control indication and re-establishing the data transmission mode between the first and second devices (col. 12 lines 12-18).

Regarding claims 14-15, Nagao teaches the reply signal comprising a transition sequence to enable to determine robbed bit signaling characteristic, wherein the transition sequence inherently comprises positive and negative value of at least one signal point (col. 7 lines 24-36).

Regarding claim 20, Nagao discloses a data transmission system comprising a first device and a second device configured to communicate with each other over a communication channel (abstract), the first device as shown in figure 1 comprising a memory element (2 and 3) for maintaining a first number of stored operating parameter, a receiver (11 and 12) configured to receive communication signals transmitted by the second device and to receive a reply signal in response to terminate a temporary pause in the data transmission mode, and a processor (1) configured to recall at least one of the first number of stored operating parameter at the first device in response to the reply signal to thereby obtained at least one recalled operating parameter for the first device and to reset the first device utilizing the at least one recalled operating parameter (col. 4 lines 19 through col. 5 line 10 and col. 11 line 65 through col. 12 line 21).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 4-7, 12-13 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagao (US PAT. 5,764,278) in view of Hanson et al. (US PAT. 5,600,712 hereinafter Hanson).

Regarding claim 4-6, Nagao teaches to receive a reconnect indication being generated in response to a request to terminate the temporary pause in the communication session at the first device (col. 11 lines 65-67), and transmitting a signal point sequence from the first device to the second device in response to the reconnect indication (col. 12 lines 5-8). Nagao differs from the claimed invention in not specifically teaching to determine characteristic of the data communication network in response to the received sequence, wherein the determining step determines characteristics of digital impairments associated with the data communication network, and the signal sequence comprises a sequence of pulse code modulation signal point. However, Hanson teaches to determine characteristic of the data communication network in

Art Unit: 2643

response to the received sequence by determining the characteristics of digital impairments associated with the data communication network in order to reduce the training interval of the remote device, wherein the signal point sequence includes a sequence of pulse code modulation signal points (col. 5 lines 3-5 and lines 34-39). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Nagao in determining characteristics of the data communication network, wherein the determining step determines characteristics of digital impairments associated with the data communication network, and the signal sequence comprises a sequence of pulse code modulation signal point, as per teaching of Hanson, because it reduces the training interval of the remote device.

Regarding claim 7, Hanson teaches to further obtain a second operating parameter for the data communication system, the second operating parameter being associated with a communication channel so that the second operating parameter at the first device being stored and recalled in response to the termination of a temporary pause in said communication session, to thereby obtain a second recalled operating parameter (col. 5 lines 40-47).

Regarding claims 12-13, the limitations of the claims are rejected as the same reasons set forth in claims 4-6.

Regarding claims 16-19, Hanson teaches the stored operating parameter comprising data associated with impairments of the communication link, a signal point constellation, echo canceller setting and power level setting (col. 5 lines 1-10).

Art Unit: 2643

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Terho et al. (US PAT. 6,067,534) discloses a method for controlling a modem connection in a transfer line with interference, thus making the establishment and maintenance of the connection faster and more reliable than earlier (col. 2 line 24 through col. 3 line 8).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Eng whose telephone number is 703-308-9555. The examiner can normally be reached on Tue-Fri 7:30 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis A. Kuntz can be reached on 703-305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



George Eng
Primary Examiner
Art Unit 2643